

REFERENCE TITLE: **Sierra Vista irrigation nonexpansion area**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SB 1141**

Introduced by  
Senators Bee, Aguirre, Arzberger, Brotherton, Hellon, Miranda;  
Representatives Alvarez, Burns J, Paton; Senators Blendu, Burns, Cannell,  
Flake, Garcia, Gould, Hale, Mitchell; Representatives Jones, Konopnicki,  
McClure, Nelson

AN ACT

AMENDING SECTIONS 45-431 AND 45-437, ARIZONA REVISED STATUTES; RELATING TO  
THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 45-431, Arizona Revised Statutes, is amended to  
3 read:

4       45-431. Initial irrigation non-expansion areas

5       A. The Douglas critical groundwater area and the Joseph City critical  
6 groundwater area, delineated in the orders of the state land commissioner  
7 dated May 5, 1965 and December 16, 1974, respectively, are designated as  
8 initial irrigation non-expansion areas on ~~the effective date of this chapter~~  
9 JUNE 12, 1980 and are governed by ~~the provisions of~~ this article.

10     B. THE PORTION OF THE SIERRA VISTA GROUNDWATER SUBBASIN DELINEATED ON  
11 THE MAP FILED IN THE OFFICE OF THE SECRETARY OF STATE ON  
12 \_\_\_\_\_, 2006 IS DESIGNATED AS A SUBSEQUENT IRRIGATION  
13 NON-EXPANSION AREA ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION  
14 AND IS GOVERNED BY THIS ARTICLE. A TRUE COPY OF THE MAP SHALL BE ON FILE IN  
15 THE DEPARTMENT AND SHALL BE AVAILABLE FOR EXAMINATION BY THE PUBLIC DURING  
16 REGULAR BUSINESS HOURS. A TRUE COPY OF THE MAP SHALL ALSO BE RECORDED IN THE  
17 OFFICE OF THE COUNTY RECORDER IN THE COUNTIES IN WHICH THE IRRIGATION  
18 NON-EXPANSION AREA IS LOCATED.

19     Sec. 2. Section 45-437, Arizona Revised Statutes, is amended to read:

20       45-437. Irrigated acreage; water measuring device; annual  
21                   report of groundwater pumping; penalty;  
22                   transportation; exemption

23       A. In an initial irrigation non-expansion area established pursuant to  
24 section 45-431, SUBSECTION A, except as provided in subsection ~~E~~ F of this  
25 section, only acres of land which were legally irrigated at any time between  
26 January 1, 1975 and January 1, 1980 may be irrigated with groundwater,  
27 effluent, diffused water on the surface or surface water, except as provided  
28 in sections 45-172, 45-437.01, 45-437.02 and 45-437.03, and except that this  
29 does not prohibit irrigation with surface water used pursuant to decreed or  
30 appropriative rights established before June 12, 1980. Land which was not  
31 irrigated at any time from January 1, 1975 through January 1, 1980 is deemed  
32 to have been in irrigation if the director finds that substantial capital  
33 investment has been made in the twelve months before June 12, 1980 for the  
34 improvement of the land and on-site irrigation distribution facilities,  
35 including the drilling of wells, for an irrigation use. This subsection does  
36 not allow irrigation of land which could not have been legally irrigated  
37 under prior statutory law.

38       B. In a subsequent irrigation non-expansion area established pursuant to  
39 section 45-432, except as provided in subsection ~~E~~ F of this section,  
40 only acres of land which were irrigated at any time during the five years  
41 preceding the date of the notice of the initiation of designation procedures  
42 may be irrigated with groundwater, effluent, diffused water on the surface or  
43 surface water, except as provided in sections 45-172, 45-437.01, 45-437.02  
44 and 45-437.03, and except that this does not prohibit irrigation with surface  
45 water used pursuant to decreed or appropriative rights established before the

1 date of the notice. Land which was not irrigated at any time during this  
2 five year period is deemed to have been in irrigation if the director finds  
3 that substantial capital investment has been made for the subjugation of such  
4 land for an irrigation use including on-site irrigation distribution  
5 facilities and a well or wells the drilling and construction of which were  
6 substantially commenced before the date of the notice of the initiation of  
7 designation procedures.

8 C. IN THE SUBSEQUENT IRRIGATION NON-EXPANSION AREA ESTABLISHED  
9 PURSUANT TO SECTION 45-431, SUBSECTION B, EXCEPT AS PROVIDED IN SUBSECTION F  
10 OF THIS SECTION, ONLY ACRES OF LAND WHICH WERE IRRIGATED AT ANY TIME BETWEEN  
11 JANUARY 1, 2001 AND JANUARY 1, 2006 MAY BE IRRIGATED WITH GROUNDWATER,  
12 EFFLUENT, DIFFUSED WATER ON THE SURFACE OR SURFACE WATER, EXCEPT AS PROVIDED  
13 IN SECTIONS 45-172, 45-437.02 AND 45-437.03, AND EXCEPT THAT THIS DOES NOT  
14 PROHIBIT IRRIGATION WITH SURFACE WATER USED PURSUANT TO DECREED OR  
15 APPROPRIATIVE RIGHTS ESTABLISHED BEFORE JANUARY 1, 2006. LAND WHICH WAS NOT  
16 IRRIGATED AT ANY TIME FROM JANUARY 1, 2001 THROUGH JANUARY 1, 2006 IS DEEMED  
17 TO HAVE BEEN IN IRRIGATION IF THE DIRECTOR FINDS THAT SUBSTANTIAL CAPITAL  
18 INVESTMENT HAS BEEN MADE FOR THE SUBJUGATION OF SUCH LAND FOR AN IRRIGATION  
19 USE INCLUDING ON-SITE IRRIGATION DISTRIBUTION FACILITIES AND A WELL OR WELLS  
20 THE DRILLING AND CONSTRUCTION OF WHICH WERE SUBSTANTIALLY COMMENCED BEFORE  
21 JANUARY 1, 2006.

22 C. D. Except as provided in subsection F-G of this section, in an  
23 irrigation non-expansion area:

24 1. Each person withdrawing groundwater from a ~~non-exempt~~ NONEXEMPT  
25 well for an irrigation use and each person withdrawing more than ten  
26 acre-feet of groundwater per year from a ~~non-exempt~~ NONEXEMPT well for a  
27 non-irrigation use shall use a water measuring device approved by the  
28 director. Each person withdrawing groundwater from a ~~non-exempt~~ NONEXEMPT  
29 well shall file a report on a calendar year basis with the director on a form  
30 provided by the director no later than March 31 of the following year. In  
31 filing a report, each person withdrawing ten or fewer acre-feet of  
32 groundwater per year from a ~~non-exempt~~ NONEXEMPT well for a non-irrigation  
33 use shall estimate the quantity of groundwater withdrawn.

34 2. Transportations of groundwater are subject to ~~the provisions of~~  
35 articles 8 and 8.1 of this chapter.

36 D. E. If a person, who is required under subsection C-D, paragraph 1  
37 of this section to file an annual report for calendar year 1986 or any  
38 subsequent calendar year, fails to file a report for the calendar year in  
39 question on or before March 31 of the following year, the director may assess  
40 and collect a penalty of twenty-five dollars for each month or portion of a  
41 month that the annual report is delinquent. The total penalty assessed under  
42 this subsection shall not exceed one hundred fifty dollars. The director  
43 shall deposit, pursuant to sections 35-146 and 35-147, all penalties  
44 collected under this subsection in the state general fund.

1        ~~E.~~ F. In an irrigation non-expansion area, a correctional facility  
2 under the jurisdiction of the state department of corrections may irrigate  
3 with groundwater, effluent, diffused water on the surface or surface water up  
4 to a total of ten acres of land that otherwise may not be irrigated pursuant  
5 to subsection A or B of this section if the irrigation is for the purpose of  
6 producing plants or parts of plants for consumption by inmates at the  
7 correctional facility as part of a prisoner work program and if the  
8 correctional facility notifies the director of water resources in writing of  
9 the location of the acres of land to be irrigated prior to their  
10 irrigation. The actual number of acres of land that a correctional facility  
11 may irrigate pursuant to this subsection shall be calculated by subtracting  
12 the number of acres of land the correctional facility may already irrigate  
13 under subsection A or B of this section from ten.

14        ~~F.~~ G. A person who withdraws groundwater from a ~~non-exempt~~ NONEXEMPT  
15 well for an irrigation use is exempt from subsection ~~E~~ D, paragraph 1 of  
16 this section for those withdrawals if both of the following apply:

17        1. Groundwater withdrawn from the well for an irrigation use is used  
18 only on land that is owned by a person who has the right under subsection A,  
19 ~~or~~ B OR C of this section to irrigate ten or fewer contiguous acres of land  
20 at the place of the use.

21        2. Groundwater withdrawn from the well is not used on land that is  
22 part of an integrated farming operation.